

Jan 22, 2020

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

RICHARD FABEL,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

No. 2:19-mc-00043-SMJ

**ORDER ADOPTING REPORT
AND RECOMMENDATION AND
DISMISSING CASE**

Before the Court is Magistrate Judge Rodgers's January 6, 2020 Report and Recommendation, ECF No. 10, recommending that the Court dismiss Plaintiff's "Motion for Return of Propert[y]," ECF No. 1, without prejudice for failure to timely effect service on Defendant. ECF No. 10 at 1–2. On January 21, 2020, within the period set for objections to the Report and Recommendation, Plaintiff filed a "Federal Rule of Criminal Procedures Rules 41(g) Motion for Return of Property," ECF No. 13, reiterating the same arguments put forth in the original motion, ECF No. 1. But Plaintiff did not object to Magistrate Judge Rodgers's recommendation that the case be dismissed for failing to effect service in a timely manner, or explain Plaintiff's failure to do so. *See generally* ECF No. 13. As Magistrate Judge Rodgers explained, the Court will generally dismiss an action without prejudice if service is

1 not effected within ninety days of a suit's commencement, without regard to the
2 merits of the litigant's claims. Fed. R. Civ. P. 4(m).

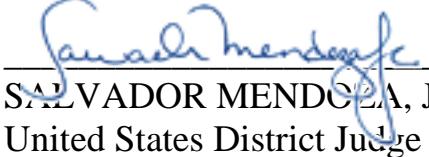
3 Accordingly, after reviewing the Report and Recommendation, the Court
4 finds Magistrate Judge Rodgers's findings are correct. Therefore, the Court adopts
5 the Report and Recommendation in its entirety.

6 Accordingly, **IT IS HEREBY ORDERED:**

- 7 1. The Report and Recommendation, **ECF No. 10**, is **ADOPTED** in its
8 entirety.
- 9 2. The Motion for Return of Seized Propert[y], **ECF No. 1**, is
10 **DISMISSED WITHOUT PREJUDICE**. All other pending motions
11 are **DENIED AS MOOT**.
- 12 3. The Clerk's Office is directed to **CLOSE** this file.

13 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order and
14 provide copies to *pro se* Plaintiff and Magistrate Judge Rodgers.

15 **DATED** this 22nd day of January 2020.

16 
17 SALVADOR MENDEZA, JR.
United States District Judge

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ORDER ADOPTING REPORT AND RECOMMENDATION
AND DISMISSING CASE - 2